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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,137	03/29/2004	Simon J. Porter	H0002969 DIV 1 (4760)	2160

7590 10/06/2005

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EXAMINER

SCHATZ, CHRISTOPHER

ART UNIT PAPER NUMBER

1733

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/812,137

Applicant(s)

PORTER, SIMON J.

Examiner

Christopher T. Schatz

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1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 32-37 and 42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32-37 and 42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/16/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 32, 34, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Toney et al. '764.

Toney et al. discloses a process for forming a multilayered film comprising: positioning a sealant film 12 onto a first surface of a nylon film 20 (column 3, lines 16-20), wherein the sealant film has an anti-fog composition which is either incorporated therein or coated on a surface of the sealant film opposite the nylon film (column 4, lines 32-40); and applying a protective film onto a second surface of the nylon film (column 5, lines 58-60).

As to claim 34, Toney et al. discloses a process for forming a multilayered film wherein the nylon film and sealant film are optionally laminated together via an adhesive (column 3, lines 16-20). As to claim 36, Toney et al. discloses a process for forming a multilayered film wherein the sealant film has an anti-fog composition which is incorporated into the sealant film (column 4, lines 32-40).

3. Claims 32-37 rejected under 35 U.S.C. 102(e) as being anticipated by Hatley et al. '892.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Hatley et al. discloses a process for forming a multilayered film comprising: positioning a sealant film onto a first surface of a nylon film, wherein the sealant film (column 9, lines 46-47) has an antifog composition which is either incorporated therein or coated on a surface of the sealant film opposite the nylon film; and applying a protective film onto a second surface of the nylon film (claims 21-24). As to claim 33, Hatley et al. discloses a process for forming a multilayered film wherein the nylon film and sealant film are coextruded (claim 21). As to claim 34, Hatley et al. discloses a process for forming a multilayered film wherein the nylon film and sealant film are laminated together optionally via an intermediate adhesive (claim 21). As to claim 35, Hatley et al. discloses a process for forming a multilayered film wherein the nylon film is biaxially oriented (claim 21). As to claim 36, Hatley et al. discloses a process for forming a multilayered film wherein an anti-fog composition is incorporated in the sealant film (claim 23). As to claim 37, Hatley et al. discloses a process for forming a multilayered film wherein an anti-fog composition is coated onto a surface of the sealant film opposite the nylon film (claim 22).

*Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 33 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toney et al. as applied to claim 32 above, and in further view of the admitted prior art.

Toney et al. discloses a method as stated in claim 32, but the reference is silent as to coextruding the nylon film and the sealant film. The admitted prior art discloses that it is well known in the art to coextrude two layers to form multilayered films (page 15, lines 1-2).

Therefore, at the time of the invention it would have been obvious to a person of ordinary skill in the art to modify the method disclosed by Toney et al. such that the nylon and sealant films are coextruded as taught by the admitted prior art. As to claim 37, the admitted prior discloses that it is well known to coat a sealant film with an anti-fog component as an alternative to incorporating aid component into the film. As such, at the time of the invention it would have been obvious to a person of ordinary skill in the art to coat an anti-fog composition onto a surface of a sealant film opposite the nylon film.

6. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toney et al. as applied to claim 32 above, and in further view of Mizutani et al. '211.

Toney et al. discloses a method as stated in claim 32, but the reference is silent as to biaxially stretching the nylon film. Mizutani et al. discloses a method of biaxially stretching a

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nylon film to be bonded to a polyethylene sealant film (column 1, lines 15-21, column 2, line 66 – column 3, line 7), and further discloses that a method wherein nylon film is biaxially oriented is advantageous because it increases the pinhole resistance, heat-resistance, low temperature resistance, and gas barrier properties of the resultant film (column 1, lines 15-20). Therefore, at the time of the invention it would have been obvious to a person of ordinary skill in the art to modify the method disclosed by Toney et al. such that the nylon film is biaxially stretched as taught by Mizutani et al.

7. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toney et al. as applied to claim 32 above, and in further view of Brazier '843.

Toney et al. discloses a method as stated in claim 1, and further discloses the presence of a protective film selected from the group consisting of polyvinylidene chloride, polyurethanes, amine modified polyurethanes, epoxies, polyesters, acrylics, polyols and combinations thereof (column 5, lines 33-35). Examiner acknowledges, however, that Toney et al. discloses the protective film with said composition as being added to the first surface of the nylon film.

Brazier discloses a method of forming a multi-layered film comprising positioning a sealant film 23 onto a first surface of a nylon film 22, and further discloses applying a protective film 24 selected from the group consisting of polyvinylidene chloride, polyurethanes, amine modified polyurethanes, epoxies, polyesters, acrylics, polyols and combinations thereof, said protective film applied to the first surface of the nylon film (figure 2) or, alternatively, to a second surface of a nylon film (figure 2A). Therefore, at the time of the invention it would have been obvious to a person of ordinary skill in the art to modify the method disclosed by Toney et al. by applying the protective film to a second surface of a nylon film as taught by Brazier.

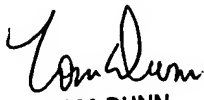
*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher T. Schatz whose telephone number is 571-272-1456. The examiner can normally be reached on 10:00-7:30, Monday -Thursday, 10:00-6:30 Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on 571-272-1171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CTS

  
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